[Mr. Kottur Kunjukrishna Pillai,]

persons in British India. The idea of Mr. Narayana Aiyar in introducing here the various pieces of legislation in force in British India is to bring the laws in Travancore and in British India on a par, so that the community in British India and the community in Travancore may be governed by the same set of laws. I think it is consistent with that that he has made himself responsible for this Bill. There has been no question of opposing the principle of the Bill at the first stage or at the second stage. At the third stage, probably, this objection will not be very valid for a total rejection of the Bill. And I believe, that no consideration will be given to the opinion of Mr. Ananthasiva Aiyar that this legislation is dangerous. I hope this piece of legislation will be passed.

The question that the Bill be passed was put and carried.

THE TRAVANCORE CHRISTIAN GUARDIANSHIP BILL.

Mr. James Fletcher: I move, Sir, that the Travancore Christian Guardianship Bill as passed by the Travancore Sri Mulam Assembly be taken into consideration.

Mr. E. K. Kuripe (*Parur, Kunnatnad and Muvattupuzha cum Devicolam*): I second the motion.

The question that the Bill be taken up for consideration was put and carried.

Clauses 1 to 5.

The question that clauses 1 to 5 do stand part of the Bill was put and carried.

Clauses 1 to 5 were added to the Bill.

Preample and Title.

The question that the preamble and title of the Bill do stand part of the Bill was put and carried.

Mr. James Fletcher: I move that the Bill be passed.

Mr. V. Sankara Menon (*Trivandrum and Nedumangad cum Chirayinkil*): I second it.

The Bill was passed.

THE TRAVANCORE CHILD MARRIAGE RESTRAINT BILL.

Mr. M. Govindan (*Nominated*): I move, Sir, that the Travancore Child Marriage Restraint Bill as passed by the Legislative Assembly be taken up for consideration.

In doing so, I wish to offer a few remarks.

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Mr. G. Narayana Aiyar: On a point of order. I wish to know whether the motion is in order. The first question I would raise is this; when this Bill was first introduced, Government nominated Mr. Subba Aiyar as a member for this Bill. He has not as yet resigned nor has he ceased to be a member of the Assembly. He has not been summoned for this meeting as he should have been.

President: It is a very subtle legal point.

Mr. G. Narayana Aiyar: Section 6 (2) of the manual directs that summons shall be issued. So long as summons have not been issued to him, I would submit that this Council—this House—is not properly constituted. Then the next objection that I would raise is when once the very same motion was considered and rejected by this House, it is no longer in the legislative anvil and cannot be moved again. The further stages have to be proceeded with as if it is a new Bill. Although there is a provision for introducing the Bill at a later stage, I beg to submit there is a time limit for that. In this connection I would refer to Section 21 of the Act. "If any Bill which has been passed by one Chamber is not, within one year after the passage of the Bill by that Chamber passed by the other Chamber either without amendments or with such amendments as may be agreed to by the two Chambers, Our Dewan may refer the matter for decision to a Joint Committee of both Chambers hereinafter provided for, in order to discuss and settle any difference of opinion which has arisen between the two Chambers." (See also Section 123 of the Manual.)

This is the only provision that has been found in the Statutes. The Dewan has not referred the matter as per the provisions of that section. The present motion presumes that the bill is pending. That is not correct. Any how, since this House has rejected the bill it can no longer be said to be pending. It has become practically a dead-letter. Even if reliance is placed on Section 21, there is a time limit fixed by that Section, which says that if the other House has not passed it within one year, there is a specific power vested in the Dewan to refer the matter for decision to a joint session of both the Houses. The Bill was passed on 14th Makaram 1115, and today we are sitting on the 16th of Makaram 1116. The time has expired on the 14th Makaram 1116. There is no provision in the whole Act to bring in or allow such a motion. When there is no provision in the Act, I am not able to understand how the honourable member is in order in moving it. The Act is so clear. The Act does not give any discretionary power or revisionary power on the President or to any member. So, by the Act, it is clear that if it is not passed within one year, the only authority that can do

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[Mr. G. Narayana Aiyar.]

anything is the Dewan, and that authority can be exercised only in the manner provided in Section 21. That section says that the Dewan may refer the matter for decision to the joint meeting of both the Chambers. Now, that procedure was not followed. It was moved by one honourable member and the motion was defeated. Now another honourable member comes in and wants to agitate for the thing. That is practically a reviewing of the past order. There is no provision for that. I submit that the member is not in order. Under the circumstances, when you do not find any existing provision... .....

Mr. James Fletcher: When a Bill is passed in a particular Chamber and if it is not passed in the other Chamber, what is the procedure to be followed?

Mr. G. Narayana Aiyar: I am coming to that. I think it won't be out of place if I refer to a few sentences from Halsbury's Laws of England, where you find the same difficulty solved. There the House of Commons passed a Bill; but the House of Lords rejected it. To remove the existing difficulty they had to find out ways and means for effectively carrying out their decision. In Volume XXIV (2nd edition) paragraph 575 it is stated:

> "Bills which have been passed by the House of Commons, but which have not been agreed to by the House of Lords, may, under certain circumstances become law.
>
> If any public Bill, other than a "money Bill" a Bill for extending the maximum duration of Parliament beyond five years or a Bill for confirming a provisional order, is passed by the House of Commons in three successive sessions, whether of the same Parliament or not, and, having been sent up to the House of Lords at least one month before the end of the sessions in each of those sessions, is rejected by that house, or is not passed either without amendment or with such amendments only as the House of Commons is prepared to accept, it is, upon its rejection for the third time by the House of Lords, and unless the House of Commons direct to the contrary, to be presented to His Majesty for the Royal Assent, and, upon the Royal Assent being signified, is to become an Act of Parliament as if it had been passed in the usual manner by both Houses of Parliament."

President: Order, order. That refers to a particular piece of legislation passed by Parliament about ten years ago, by reason of which the House of Lords' powers are further curtailed and their blocking powers diminished. It was stated by those Statutes to which House of Lords is party—or an unwilling party—that a Bill passed by the House of Commons which did not receive fair treatment at the House of Lords for a particular time should nevertheless be deemed to have become law. That was statutory. It was not part of the Common Law of England.

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Mr. G. Narayana Aiyar: I admit that position. But when we find that there is no provision in our statute for such a contingency it is advisable to follow the course adopted there as is being done in other matters. Now it may so happen when the Bill is presented again in the Lower House they would improve upon the arguments advanced or they may throw it away. What is the guarantee that it will be passed in the very same manner? So, in the absence of any statutory provision allowing any member to bring forward such a motion, I submit the motion is not in order.

Mr. M. Govindan: May I know the procedure according to my friend?

President: Order, order. The honourable member cannot take legal advice on the floor of the House.

Mr. Legal Remembrancer, have you got anything to say?

Mr. Puthupally S. Krishna Pillai: Yes, Sir.

President: Order, order. I may deal with one point first and that is with regard to Section 21. I rule that the power conferred by Section 21 is a discretionary power in certain cases of disagreement between the two Houses of Legislature. The Dewan is vested with the discretion, for adopting the procedure, to call joint session of both the Houses. That is not incumbent or obligatory. It is a discretionary power, and being a discretionary power, it should not be invoked for the procedure now. I, therefore, rule that particular objection as out of order. But the other point has more substance in it. If, as a matter of fact, the honourable member nominated for the purpose of the Bill has not resigned, then the circumstances that the Bill has been rejected by the House *ipso facto* terminate his tenure of office.. That is the point on which I like to hear argument from the Legal Remembrancer.

Mr. Puthupally S. Krishna Pillai: Sir, the Government are empowered.....

President: What is the nominating power?

Mr. Kottur Kunjukrishna Pillai: May I know, Sir, whether it does not come under the provision of co-option of members?

President: Yes, that is right. Order, order. In order to dissipate any doubts, once a member has been nominated by Government, it can well be urged that, whether he is nominated for a particular purpose or *ad hoc* or generally, he continues to be a member of this House, enjoying certain privileges which are statutorily

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[President.]

limited in the case of what are called co-opted members. Otherwise he has got all the rights of members. The rights of members can only terminate in one of the following methods: one method is resignation, and another method is declaration by Government of the seat as vacant in consequence of absence or inability to fulfill his function at the Legislature. The third is the method of vacating office namely, the obsolescence of the reasons or the purpose for which he was nominated.

Mr. Puthupally S. Krishna Pillai: Sir, Section 6 (2) of the Legislative Reform Act, says:

> "Provided also that Our Government may, for the purpose of any Bill introduced or proposed to be introduced in the Assembly nominate not more than two members having special knowledge or experience of the subject matter of the Bill, and those persons, shall in relation to the Bill have, for the period for which they are nominated, all the rights of members of the Assembly and shall be in addition to the numbers above referred to."

President: I do not want to hear any further argument. I don't think the honourable member has seen the point. That is, these persons shall, in relation to the Bill have, for the period for which they are nominated, namely, the pendency or the currency of the Bill have the rights of members. After the termination of the purpose, they lose their membership. What is the honourable member's answer to it?

Mr. G. Narayana Aiyar: If the introduction of the Bill here is now supposed to be pending, the membership is also pending, till it is finally disposed of.

President: According to the contention of the honourable member, it has been finally disposed of already. I rule the objection untenable. Mr. Govindan may now proceed:

Mr. M. Govindan: The Travancore Child Marriage Restraint Bill has been discussed at very great length in the other House, and after long deliberation the other House has passed it. If you consider the history of the Bill you will find that in British India it has undergone many changes after the Bill had been introduced as a matter of compromise. The last clause in the Bill *i. e.*, Section 11 "Our Government may, by notification in the Government Gazette exempt any marriage in Travancore from the operation of this Act on application made in that behalf by the legal guardian of the bride or bridegroom whoever is a child." That makes it possible for any person to get exemption from the operation of the general provisions of this Bill. That child marriage is unhealthy, it is injurious to the health of the nation, that it is from

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a medical point of view deleterious to health of the wife and the progeny has been unanimously held all over by medical men and by persons who have long experience in the country. The objection that it is against the custom of certain communities based on religion is not substantial. In the first place what we have to note is that the Smrithis, as was pointed out in this House on a former occasion quoting some Smrithis all purport to enjoin that girls above 16, that is to say, 3 years after puberty, should alone be given in marriage and the bridegrooms should be at least 20 or thereabouts. The ages here prescribed are only 18 for boys and 14 for girls. In view of the Smrithi injunctions it is a very moderate limit that has been prescribed with a view to compromise with orthodox opinion. Similarly the other point that I wish to urge is that the penalties provided are very light. All that is indicated is a desire that the Government views with disapproval infant marriages *i. e.* marriages of children, boys below 18 and of girls below 14.

President: You mean Legislature and not Government?

Mr. M. Govindan: Yes Sir. Now in regard to this matter that there is no religious difficulty is clear from the fact that the Vedas contain many references to marriages of persons who are adults only. The mantras indicate that the solemnity of the ceremony should be appreciated by both the parties to the marriage. In India, in most of the Indian States and in the whole of British India the law has been enacted exactly on the same lines. We are surrounded on all sides by States—that is on two sides who have got the same law. Should we be behind them in this piece of legislation while we can well claim to lead in several other matters? What is the necessity I fail to understand. If a person wants to break the law in British India in this matter he can come into Travancore and perform the marriage. Of course it may be an offence elsewhere but it is not so here. Sir, I am interrupted. I wish to know what the interruption is.

President: The honourable member is not bound to answer every interruption or hear any interruption.

Mr. M. Govindan: That the British Indian law makes even performance of marriage here an offence there. That is the position that I was trying to state and even if that is so, so long as it is no offence here, the environment here will be more congenial for the performance of the act and it may be more difficult.....

President: You are getting rather mixed up now. How will this come in?

Mr. M. Govindan: I mean the actual practice. I am now talking not so much as a lawyer but as a practical man. Supposing I am arranging a marriage and I am in British India.

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Mr. Thomas Chandy Mukkadan : ബഹുമാനപ്പെട്ട മെമ്പർ പ്രസ്താവിക്കുന്നപ്രകാരമുള്ള ഉദാഹരണങ്ങൾ പറയുവാനുണ്ടോ?

Mr. M. Govindan : ഉണ്ട് ; റയിൽവേസ് റേഷനു സമീപമുള്ള ഒരു ഗൃഹത്തിൽവച്ച് ഈ ചട്ടം വന്നശേഷം ഒരു ചൈൽഡ് മാരിയേജ് നടന്നതിലേക്കു പലരേയും ക്ഷണിച്ചുകൂട്ടത്തിൽ എനിക്കും ക്ഷണനമുണ്ടായിരുന്നു. എന്നാണ് എന്റെ കാമ്മ.

President : Is the honourable member still answering the question ?

Mr. M. Govindan : No. Another honourable member is quietly whispering, whether it would amount to an abetment of the offence.

President : If the honourable member takes note of all kinds of whispers, he will never finish the business.

Mr. M. Govindan : I may assure the honourable member that it will not constitute an abetment under law. Now apart from all legal questions, is it fair that we in this part of the country remain behind other parts of India in this particular matter? When they have progressed, when they have been able to enact the particular piece of legislation, it cannot be said that they have done so under more favourable circumstances. The Brahmin community of which there are a few members present who are opposing the measure will kindly bear in mind that the community is stronger elsewhere than even in Travancore and well-represented in the Legislatures.

Mr. G. Narayana Aiyar : May I know from the member what is the authority for the position that the community is smaller in Travancore than elsewhere ?

Mr. M. Govindan : I make that assumption. If my friend is informed reliably that it is not so, it is open to him to point out the fact when his turn comes.....

.....and better represented in the legislatures elsewhere and the matter was introduced into the legislature and notwithstanding opposition from certain members it was the Brahmin members who supported and carried the legislation elsewhere. Sir, I was going to say that elsewhere the literature on this subject shows that the bill was passed into law notwithstanding a degree of opposition owing to the support of representatives of the most advanced communities.

President : Order, order.

Mr. M. Govindan : I have a book here containing a report of what happened elsewhere and I find in it that the present President was strongly of opinion.....

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Mr. Puthupally S. Krishna Pillai: May I know the name of the book referred to by the honourable member?

Mr. M. Govindan: The Madras Legislative Council Proceedings. Sir C. P. Ramaswami Aiyar was strongly in favour—

President: There is what is called a *Purvasramam* in these matters.

Mr. M. Govindan: In his language the spectacle of child mothers and child wives is simply miserable.

Mr. V. Sankara Menon: May I know from the honourable member whether Sir C. P. Ramaswami Aiyar has got daughters?

Mr. M. Govindan: I do not yield my seat.

President: Please go on.

Mr. M. Govindan: I referred to the directions contained in *Susrata* and the *Smritis* and the *Vedas* last time. Dhanwantari, considered to be the greatest authority on matters relating to health, points out that in the case of marriage between a man under the age of twenty and a girl under the age of sixteen, the senses of the offspring will not become as fully developed as in the case of those who are more mature. I have got the quotations with me, but I do not want to take up the time of the House by referring to them. If any member has any doubt on that matter, I am willing to place them before him.

Mr. M. K. Ananthasiva Aiyar: May I know from the honourable member.....

President: Order, order. I would suggest to honourable members who wish to put questions to Mr Govindan to make a note of those questions and to put them at the end of his speech.

Mr. Puthupally S. Krishna Pillai: Mr. Govindan extended a general invitation to members who wanted to put questions to him.

President: At the same time he extended a special invitation against people who wished to interrupt him. (*Laughter*).

Mr. M. Govindan: Dr. Mackay, a medical man.....

President: It is a medical lady. (*Laughter*).

Mr. M. Govindan: She is a lady for whom all Indians have a high regard and who has spent fifty years in the cause of Indian womanhood. She writes :—

> "During forty years of medical work I have attended a good many labour cases and it is my firm belief that the women of India have to endure an immense amount of unnecessary suffering at the time of delivery and that the high mortality is very largely due to their habit and the rules imposed on them by their social and religious custom."

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[Mr. M. Govindan.]

She goes on to say—

"I have attended six young girls who were about twelve years old, certainly not yet thirteen, and I have attended many who were in their fourteenth or fifteenth year. Almost invariably these labours were abnormally long and difficult and the inevitable suffering was greatly increased by terror. In one case the young mother went insane during labour from terror and pain and it was many months before she recovered from the nervous shock and strain and was able to take her place in the family. When they do survive this ordeal, salvation of these young mothers lies in the fact that the bodies are usually very small but it is a very sad outlook for the country,

"If the children of the highest caste are so feeble, puny and u developed as many of these children prove to be, many of these young mothers, we all know, are permanently injured and never really recover."

The fact is that in the case of the affluent families to which most of us may be said to belong we fail to recognise the real difficulties. In the case of the average poor families, the trouble will be much more. It is often said that although marriage is performed during infancy, the consummation actually takes place only after the girl attains puberty. The fact is that according to well-settled medical opinion even on the attainment of puberty a girl is not fit for married life. She has to wait more, so that her physical powers may be more fully developed. But, in the case of many poor people actual married life does not wait even till the attainment of puberty. That is the experience of many who actually know these matters. I will not quote the many instances of sufferings that have come to my notice. But I will simply appeal to this House, on the ground of bringing our law into line with the rest of India and on the ground of the wholesome nature of the Act and the permissive character of the provision in the Bill enabling Government to exempt all bonafide cases, to lend its hearty support to this measure. Let us not be accused of providing rendezvous for all people who want to evade the law in other places. Let not Travancore be singled out as a dark spot in the whole of India. Let us be up-to-date and move with the times. That is my prayer to my friends. That it is an old man in whose community there is not this evil, that is now sponsoring this piece of legislation should not weigh with the House. My friend here by my side who says "No" does not understand the prevalent feelings.

There is a sort of feeling lurking in the minds of certain members what is the business of this man to introduce this piece of legislation which will affect us more than him and his community? No, that is not the point. We are here, every one of us, authorised to take our part in legislation and all we have to see when a measure comes before us, is whether its effects are deleterious or are good for

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the majority of the people of the country: There is an impression that this is a piece of legislation meant only to apply to Brahmins. Of course those who have read the Bill will not have that impression. But all the same the impression is strong that this piece of legislation solely affects Brahmins. When talking to a lawyer member yesterday, I was told that it was a piece of legislation affecting Brahmins. But it is not so. The law is meant for all classes in Travancore, and if all other classes agree, may I appeal to my Brahmin friends that they who lead in many matters should not be behind and should not be in the way of progress. With these words I move that the Bill as passed by the Assembly be taken into consideration.

Mr. K. K. Kuruvilla (*Mavelikara and Thiruvalla cum Pattanamthitta*): I second it.

Mr. N. Krishna Aiyar: Under Standing Order No. 27, I move that the business be postponed. There has not been sufficient time for reconsideration of the Bill and the motion before the House is essentially a motion for reconsideration. Nor was there sufficient time for us to send up amendments. The time prescribed is normally six days. But it is hardly three days since we received notice of the motion for reconsideration and we had no time either to reconsider the Bill or to send up amendments.

Mr. G. Narayana Aiyar: I support the motion.

President: Technically, I suppose, there is something to be stated in favour of Mr. Krishna Aiyar's position. I find that Mr. Govindan has given notice of his intention to move that the Child Marriage Restraint Bill be taken for consideration, on the 23rd. It was circulated on the 24th. Therefore, there has not been the six days' time required by the Standing Order. I should like to hear more honourable members on this aspect of the matter.

Mr. Puthupally S. Krishna Pillai: Sir, the six days notice provided in the Standing Order is a period which can be waived.

President: I know it. But why is it that earlier notice was not given? Have you any idea?

Mr. Puthupally S. Krishna Pillai: No, Sir.

President: When was the date of this meeting first notified?

Mr. Puthupally S. Krishna Pillai: Three weeks ago.

President: Mr. Govindan, why did you not give notice of your motion sufficiently early?

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Mr. G. Narayana Aiyar: Sir, I got the intimation by Anchal about this Bill only last morning and therefore I was not able to send up amendments to the Bill. I may mention that last time I had send up a number of amendments. This is a Bill which affects the Brahmin community most seriously. That it is so could be seen from the speeches delivered at the last session. So I submit that the House will kindly allow the motion of Mr. Krishna Aiyar to be passed so that we may have sufficient time to move amendments to the Bill.

Mr. T. V. Ramakrisna Aiyar (*Co-opted*): Sir, this is an abnormal motion as this Bill was rejected last time and nobody could possibly expect that it would be brought up to-day. Hence nobody could be prepared with amendments to the Bill. So far as I am concerned, I was nominated by Government only very recently and I received the letter of nomination only on the morning of the 24th. So, practically I had no time to study the measure or get the previous literature on the subject.

President: It is very difficult to conceive of the honourable member not being sufficiently prepared on this subject.

Mr. T. V. Ramakrishna Aiyar: I received the letter of nomination only on the morning of the 24th and I had no time to study the Bill.

President: The honourable member cannot complain that he had no time to study.

Mr. T. V. Ramakrishna Aiyar: Sir, I was not prepared to send any amendments in time for discussion to day. I therefore submit that the adjournment motion moved by Mr. Krishna Aiyar is in order.

President: There is no doubt that it is in order.

Mr. T. V. Ramakrishna Aiyar: I mean to say that it is perfectly right.

President: Speaking for myself, I have always taken the line that the Legislature should give the utmost possible latitude to a minority in the House, when it wants time for discussion or for deliberation or for moving amendments. It is fairly clear that in the other House the opponents of the Bill were in a minority. I cannot say that it is the same position here. But if honourable members think that they have not had enough time for moving amendments or that six days time was not given, I hope the House will allow those honourable members the satisfaction of having put their case before the House. At the same time, those honourable members who are sponsoring the Bill need not be anxious that the postponement of consideration will amount to the postponement of the

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Bill *sine die*, because the present intention of Government is to have a meeting of the two Houses convened some time in the second week of March. A certain amount of legislative work is pending before Government and that has to be got through fairly quickly. I do not think there will be considerable jeopardy by postponing consideration of this Bill to the second week of March. But it is a matter for decision by the House. In this, as in other matters of social legislation, official members will not vote.

The question that the consideration of the Bill be postponed to the next meeting was put and carried.

THE TRAVANCORE KAMMALA BILL.

Mr. M. Govindan: Sir, I move that the Travancore Kammala Bill, as passed by the Assembly, be taken up for consideration.

Mr. G. Nilakantan (*Co-opted*): I second it.

Mr. Kochickal P. Balakrishnan Tampi: Sir, I may suggest that the consideration of this Bill also be deferred till the census is over. For, there seems to be, I do not want to say dog fight, but a vigorous fight among respectable members of the community about the name to be given. It is better for the Legislature that it does not thrust a name on the community which it does not want. So that I move that this Bill may be postponed till the next session till we know the mind of the community. Before the next meeting the censue will be over.

President: Mr. Census Commissioner when is the census?

Mr. A. N. Thampi (*Census Commissioner*): The preliminary figures will be available on the 18th of March.

Mr. M. K. Ananthasiva Aiyar: I second the motion.

Mr. Kottur Kunjukrishna Pillai: Sir, under what standing order is the motion made that the Bill be postponed to a particular date?

Mr. Kochikal P. Balakrishnan Tampi: By exercising the power of the Chair and the House, the Bill can be postponed to a particular date.

Mr. Kottur Kunjukrishna Pillai: Am I to understand that it is an appeal to the Chair?

President: The chair cannot postpone it. It is a motion for the consideration of the House for adjourning the business to the next meeting.

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